

REMARKS

Claims 1-72 are pending. Claims 9-13, 15, 17, 19, 20, 24, 42-46, 48, 50, 52, 53 and 57 stand withdrawn by an election made September 29, 2006. Remaining claims 1-8, 14, 16, 18, 21-23, 25-41, 47, 49, 51, 54-56 and 58-72 were elected and remain in consideration here.

Applicants thank the Examiner for the acceptance of the Drawings, as filed, as formal.

In the Official Action, claims 1-8, 14, 16, 18, 21-23, 25-41, 47, 49, 51, 54-56 and 58-72, *i.e.*, all of the elected claims, were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6, 493,681 to Tertitski et al. (hereinafter “Tertitski”) in view of U.S. Patent No. 7,043,449 to Li et al. (hereinafter “Li”).

Applicants have reviewed the references cited and respectfully traverse the §103(a) rejection.

With regard to the primary reference, Tertitski, Applicants respectfully submit that the reference is inapposite for a variety of reasons, only some of which are set forth below. Although generally related to techniques involving stocks, particularly mechanisms to visualize them, *e.g.*, color coding, Tertitski is directed to a different problem than that of the present invention. As described therein, Tertitski creates a strategy matrix and tests strategies on the values stored within the various cells of that matrix to ascertain a net profit therefrom. The entire emphasis of Tertitski is on the visualization of what is the best strategy, *e.g.*, through color-coding and other visual clues, better enabling traders to see opportunities and problems based on those stored values. Armed with these clues, the user can then peruse the matrix and select an optimal strategy or recommendation to follow under certain predetermined circumstances. It is clear, however, that all of the data stored in the matrix cells is fixed and historic, and the entire thrust of the reference is to look for trends in the days, months and years past to predict a trade, *e.g.*, at the opening bell the next day (Figure 2 and associated text) based entirely on the data stored in those cells.

Applicants respectfully draw a distinction between calculating a trading strategy with visual clues gleaned from historical data (Tertitski) and applying a trading strategy dynamically upon occurrence of a market trigger condition, as claimed. Nowhere does Tertitski address this fundamental distinction. Applicants are a bit confused as to the application of this reference to the pending claims. As noted in the claims, *e.g.*, claim 1, “upon occurrence of said at least one market trigger condition,” in “a data stream of real-time

market data” the present invention “automatically generate[es] an entry or exit order over” a network “pursuant to said trading strategy.” Tertitski addresses an entirely different concern, recommending an optimal strategy from a number of different scenarios modeled from fixed historical data, e.g., over the past day or week, instead of automatically handling a trade pursuant to a strategy and under dynamic and changeable market conditions.

The secondary reference cited, Li, adds little to the argument. As with Tertitski, Li addresses techniques to improve the visualization of market movement, *e.g.*, through overlays, activity bars and charts. The stated rationale for citing Li, as providing a real-time market setting, fails to cure the serious deficiencies of the primary reference, set forth hereinabove. Applicants respectfully submit that any combination of Tertitski and Li, both addressing visualization improvements, fails to cover the invention as claims, and even lead away from the invention.

Regarding the various rejections of the dependent claims, Applicants have additional comments set forth below. For example, with claims 4, 26, 37 and 59, Applicants are quite confused. Although Applicants acknowledge that Mr. Tertitski is capable of writing in the English language in general, case in point - the patent disclosure, the Tertitski patent text says nothing about a trading strategy, *e.g.*, as used on a computer, that is written in English language, as opposed to machine-oriented computer codes. Similarly, with claims 8 and 41, Applicants disagree with the arguments presented because Tertitski is a hard-coded strategy with visualization assistance, making modification and recalculation difficult if possible at all.

Regarding the rejection of claims 14 and 47, Applicants fail to see the relevance of the cited passage of Tertitski (col. 5, line 42 to col. 6, line 5) to queuing. Regarding claims 16 and 49, Applicants respectfully note that duplicates of historical prices (in the matrix) have nothing to do with the claimed invention for checking for multiple orders in the queue. Similarly, Applicants see no relevance of the cited passage, col. 5, lines 28-49, and Figures 2 and 5 of Tertitski, directed to sell price determination, to Applicants’ innovation set forth in claims 18 and 51, directed to queue conflict resolution.

Regarding claims 22, 32, 55 and 65, Applicants respectfully submit that Tertitski (Figures 2 and 5) does not involve what transpires after the order is sent, and Applicants are not sure what is meant by the citation to the figures.

Regarding the rest of the claims, i.e., claims 2, 3, 5-7, 21, 23, 25, 28-31, 33-34, 36, 38, 56, 58, 60-64, 66-67, 69-70 and 72, Applicants respectfully submit that these dependent claims are also readily distinguishable over the Tertitski and Li references and any combination thereof in view of the arguments set forth above and additional arguments, e.g., Tertitski fails to operate in real-time, does not automate, etc.; Li has no relevance to monitoring the state of orders, etc.; and, as noted, combinations of Tertitski and Li fail to render any claims of the instant invention obvious, and even lead one skilled in the way from the teachings of the present invention..

Accordingly, Applicants respectfully submit that the additional cited rejections on the dependent claims are generally and specifically inapposite in view of the various arguments set forth above.

Applicants, therefore, respectfully request that the §103(a) rejection of the claims, as pending, be reconsidered and withdrawn in view of the above. Consideration and allowance of the application are now respectfully requested.

The Commissioner is authorized to charge any overage or shortage of fees connected with filing of this Amendment to Deposit Account No. 19-2380.

Respectfully submitted,

Dated: February 13, 2007

By: /Raymond Van Dyke, Reg.# 34746/
Raymond Van Dyke

NIXON PEABODY LLP
Customer No. 22204
401 9th Street, N.W.
Suite 900
Washington, DC 20004-2128
(202) 585-8000
(202) 585-8080 fax